REMARKS

Claims 1-3, 9-11, 17, and 19-24 are now pending in this application for which applicant seeks reconsideration.

Amendment

Non-elected claims 4-8, 12-16, and 18 have been canceled without prejudice or disclaimer, claims 1, 2, 9, 10, 17, 19, and 21 have been amended, and new claims 22 and 23 have been added. Independent claims 1, 9, and 17 have been amended to incorporate the features of claim 2 or 10, as well as to clarify that the processing unit/step activates the install script contained in the update instruction e-mail and update the first modules to the second modules. Independent claims 19 and 21 have been amended to improve their form. New claims 23 and 24 includes the email and processing features similar to independent claims 19 and 21, but defines the timing at which the updating starts. See paragraphs 80-82 and 85-87 of USPGP 2004/0205140. No new matter has been introduced.

Art Rejection

Claims 1, 2, 9, 10, 17, and 19-22 remain rejected under 35 U.S.C. § 102(e) as anticipated by Turnbull (USP 7,146,412). Claims 3 and 11 remain rejected under 35 U.S.C. § 103(a) as unpatentable over Turnbull in view of Loughran (USPGP 2002/0129107).

Turnbull discloses an applet (program) that sends email messages notifying a user (recipient) when an available firmware upgrade is discovered. The applet downloads and installs the latest upgrade of the firmware. See C3:L13-16, 48-54, C5:L39-42, 52-57, and C7:L9-29.

First, in Turnbull, the user controls updating of the firmware using the functions of the applet, such as for designating the timing of the download and installation, user selected manual downloading or automatic downloading. See C3:L55-62, C5:L24-27, C7:18-29, and C8:L49-52.

Second, Turnbull merely discloses that the applet compares available upgrades with the current version and sends email notifications when an available upgrade is suitable for installation on a device, wherein the email notifications are configured by the applet.

Applicant submits that Turnbull fails to disclose or teach (1) receiving an update instruction e-mail containing both the second modules and the install script, and (2) activating the install script contained in the received update instruction e-mail and updating the first modules in operation to the second modules contained in the received update instruction e-mail, as substantially set forth in the independent claims.

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Third, Turnbull also fails to disclose or teach (3) starting the updating at different timing, at either first timing when the first module does not starts in accordance with the description of the install script, second timing when the first module is caused to stop, third timing when the first module finishes executing, or fourth timing when the monitoring apparatus has just restarted, as set forth in independent claims 23 and 24.

Loughran, which merely discloses an email server receiving email from a network and compiling a SMS message (see paragraph 37), fails to alleviate Turnbull's shortcomings. Accordingly, applicant submits that the pending claims patentably distinguish over the applied references and are in condition for allowance. Should the examiner have any issues concerning this reply or any other outstanding issues remaining in this application, applicant urges the examiner to contact the undersigned to expedite prosecution.

                              Respectfully submitted,

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